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February 13, 2015

RECEIVED ON:

FEB 17 2015

Via Certified Mail - Return Receipt Requested

Managing Agent
Fast Auto Wrecking & Towing, LLC
21919 NE 72nd Ave.
Battle Ground, WA 98604

EPA Region 10
Office of the Regional Administrator

Managing Agent
Fast Auto Wrecking & Towing, LLC
P.O. Box 35
Battle Ground, WA 98604

Re: **NOTICE OF INTENT TO SUE UNDER THE CLEAN WATER ACT AND
REQUEST FOR COPY OF STORMWATER POLLUTION PREVENTION
PLAN**

Dear Managing Agent:

This letter is submitted on behalf of Columbia Riverkeeper, 111 Third Street, Hood River, OR 97031, (541) 387-3030. Any response or correspondence related to this matter should be directed to Smith and Lowney, P.L.L.C. at the letterhead address. This letter is to provide you with sixty days notice of Columbia Riverkeeper's intent to file a citizen suit against Fast Auto Wrecking & Towing, LLC ("Fast Auto") under section 505 of the Clean Water Act ("CWA"), 33 U.S.C. § 1365, for the violations described below. This letter is also a request for a copy of the complete and current stormwater pollution prevention plan ("SWPPP") required by Fast Auto's National Pollution Discharge Elimination System ("NPDES") permit.

Fast Auto was granted coverage effective June 30, 2011, under Washington's Industrial Stormwater General Permit ("ISGP") issued by the Washington Department of Ecology ("Ecology") on October 21, 2009, effective January 1, 2010, modified May 16, 2012, effective July 1, 2012, and expired on January 1, 2015, under NPDES Permit No. WAR-125108 (the "2010 Permit"). Fast Auto was granted coverage under the current iteration of the ISGP, issued by Ecology on December 3, 2014, effective January 2, 2015, and set to expire on December 31, 2019, (the "2015 Permit") and maintains the same permit number, WAR-125108.

Fast Auto has violated and continues to violate the terms and conditions of the 2010 Permit and 2015 Permit (collectively, the "Permits") with respect to operations of, and discharges of stormwater and pollutants from, its facility located at or near 21919 NE 72nd

Ave., Battle Ground, Washington (the "facility"). The facility subject to this notice includes any contiguous or adjacent properties owned or operated by Fast Auto.

I. COLUMBIA RIVERKEEPER'S COMMITMENT TO PROTECTING A FISHABLE AND SWIMMABLE COLUMBIA RIVER.

Columbia Riverkeeper's mission is to restore and protect the water quality of the Columbia River and all life connected to it, from the headwaters to the Pacific Ocean. Columbia Riverkeeper is a non-profit organization with members who live, recreate, and work throughout the Columbia River basin, including near and downstream of Fast Auto's facility.

Threats facing the Columbia River are severe by any measure. *See Columbia River Basin State of River Report for Toxics*, Environmental Protection Agency, Region 10 (January 2009), available online at: <http://yosemite.epa.gov/r10/ecocomm.nsf/Columbia/SoRR/>. In fact, the vast majority of rivers and streams in Washington fail to meet basic state water quality standards for pollutants such as toxics and temperature. *See State of Washington 303(d) List*, available online at: <http://www.ecy.wa.gov/programs/wq/303d/index.html>. Water quality standards are designed to protect designated uses, including aquatic life, fishing, swimming, and drinking water.

Stormwater runoff is "one of the great challenges of water pollution control" and "is a principal contributor to water quality impairment of waterbodies nationwide." *See Urban Stormwater Management in the United States*, National Research Council (Oct. 15, 2008), available online at: http://www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf. When rain sends runoff across city streets, construction projects, and industrial facilities, the water picks up contaminants that are drained into waterways such as the Columbia River and its tributaries. These toxics accumulate in local fish, wildlife, and birds. To address this leading cause of water quality impairment, Columbia Riverkeeper invests significant time and resources in reducing pollutant loads from industrial, municipal, and construction stormwater sources.

This Notice of Intent to Sue Fast Auto is part of Columbia Riverkeeper's effort to improve water quality in the Columbia River for purposes including swimming, habitat quality, and subsistence, recreational, and commercial fishing. Columbia Riverkeeper has serious concerns about the impacts of Fast Auto's operations and industrial stormwater discharges on the Columbia River. As discussed below, Fast Auto has consistently violated permit conditions and exceeded the 2010 Permit's benchmark pollutant discharge levels. Fast Auto's operations and stormwater discharges degrade water quality in the Columbia River Basin, including water quality in the Columbia River, and place the health and well-being of all who use the Columbia at risk.

II. COMPLIANCE WITH STANDARDS.

A. Violations of Water Quality Standards.

Condition S10.A of the Permits prohibit discharges that cause or contribute to violations of water quality standards. Water quality standards are the foundation of the CWA and Washington's efforts to protect clean water. In particular, water quality standards represent the U.S. Environmental Protection Agency ("EPA") and Ecology's determination, based on scientific studies, of the thresholds at which pollution starts to cause significant adverse effects on fish or other beneficial uses. For each water body in Washington, Ecology designates the "beneficial uses" that must be protected through the adoption of water quality standards.

A discharger must comply with both narrative and numeric water quality standards. WAC 173-201A-010; WAC 173-201A-510 ("No waste discharge permit can be issued that causes or contributes to a violation of water quality criteria, except as provided for in this chapter."). Narrative water quality standards provide legal mandates that supplement the numeric standards. Furthermore, narrative water quality standards apply with equal force, even when Ecology has established numeric water quality standards. Specifically, Condition S10.A of the Permits require that Fast Auto's discharges not cause or contribute to violations of Washington State's water quality standards.

Fast Auto discharges stormwater to a drainage ditch which discharges to Mill Creek, a tributary of Salmon Creek, a tributary of Lake River, which is a tributary of the Columbia River. Fast Auto discharges stormwater that contains elevated levels of turbidity, zinc and copper as indicated in the table of discharge monitoring data below. Further, the data provided in the table below represent samples collected from only one of Fast Auto's discharge points. Discharges of stormwater from the facility cause and/or contribute to violations of water quality standards for turbidity, zinc, copper, and aesthetic criteria and have occurred each and every day since June 30, 2011 on which there was 0.1 inch or more of precipitation, and continue to occur. These water quality standards include those set forth in WAC 173-201A-240, and -260(2). Precipitation data since June 30, 2011 are appended to this notice of intent to sue and identify days when precipitation met or exceed 0.1 inches per day.

TABLE 1: DISCHARGE MONITORING REPORT ("DMR") DATA FOR FAST AUTO

Quarter in which sample collected	Turbidity (NTU) (Benchmark 25 NTU)	pH (su) (Benchmark 5-9 su)	Zinc (µg/L) Concentration (Benchmark 117 µg/L)	Oil Sheen Present (Yes/No) (Benchmark "No Visible Sheen")	Copper (µg/L) (Benchmark 14 µg/L)	Lead (µg/L) (Benchmark 81.6 µg/L)	Total Petroleum Hydrocarbon (mg/L) (Benchmark 10 mg/L)
4th Quarter 2011	1.09	5.51	1400	No	.741	NR	NR
1st Quarter 2012	9.96 6.23 Avg = 8.1	6.24 6.45	170 15 Avg. = 92.5	No	56 1.7 Avg. = 28.9	NR	NR
1st Quarter 2013	2.66	5.89	13	No	8.3	NR	NR
1st Quarter 2014	258	NR	36	No	11	NR	Not Detected in Sample

Note a: Table 1 lists benchmark levels established in the Permits. Values in bold indicate benchmark exceedances. "NR" represents parameters for which data was not reported. Quarters that include two values for one outfall represent multiple samples taken and averaged.

Note b: Fast Auto's 4th Quarter 2011 DMR reports copper at .741 µg/L. Based on Columbia Riverkeeper's review of information submitted by Fast Auto to Ecology, Fast Auto may have misreported the actual copper discharge level. Upon information and belief, Columbia Riverkeeper alleges that the value should have been reported as 741 µg/L.

Note c: While Fast Auto filed a DMR labeled "3rd Quarter 2011," Fast Auto collected samples reported in that DMR during 4th Quarter 2011 (November 3, 2011). In turn, Fast Auto failed to collect quarterly samples in 3rd Quarter 2011 (discussed in section IV.A.).

Note d: According to Fast Auto's DMRs, Fast Auto monitors stormwater discharges at Outfall 01A.

B. Compliance with Standards.

Condition S10.C of the Permits requires Fast Auto to apply all known and reasonable methods of prevention, control and treatment ("AKART") to all discharges, including preparing and implementing an adequate SWPPP and best management practices ("BMPs"). Fast Auto has violated and continues to violate these conditions by failing to apply AKART to its discharges by, among other things, failing to implement an adequate SWPPP and BMPs as evidenced by the elevated levels of pollutants in its discharge. *See* Table 1; Section III. These violations have occurred on each and every day since June 30, 2011 and continue to occur every day.

Condition S1.A of the Permits require that all discharges and activities authorized be consistent with the terms and conditions of the permit. Fast Auto has violated this condition

by discharging and acting inconsistent with the conditions of the Permits as described in this Notice of Intent to Sue.

III. STORMWATER POLLUTION PREVENTION PLAN VIOLATIONS.

Columbia Riverkeeper hereby provides notice, based upon information and belief, that Fast Auto has not developed and implemented a SWPPP that complies with the requirements of the Permits. According to a recent Ecology inspection report for Fast Auto's facility, Fast Auto has not prepared a SWPPP. *See Ecology Inspection Report for Fast Auto Wrecking & Towing, LLC (Dec. 19, 2013).* Fast Auto's violations of the Permits, described herein, are evidence of Fast Auto's failure to prepare and implement a SWPPP that includes adequate BMPs and that otherwise includes all of the required SWPPP components. In the following section, Columbia Riverkeeper provides notice of SWPPP violations on information and belief.

Condition S3.A.1 of the Permits require Fast Auto to develop and implement a SWPPP as specified in these permits. Condition S3.A.2 of the Permits require the SWPPP to specify BMPs necessary to provide AKART and ensure that discharges do not cause or contribute to violations of water quality standards. On information and belief, Fast Auto has violated these requirements of the Permits each and every day since June 30, 2011 and continues to violate them as it has failed to prepare and/or implement a SWPPP that includes AKART and BMPs necessary to comply with state water quality standards.

Condition S3.A of the Permits require Fast Auto to have and implement a SWPPP that is consistent with permit requirements, fully implemented as directed by permit conditions, and updated as necessary to maintain compliance with permit conditions. On information and belief, Fast Auto has violated these requirements of the Permits each and every day since June 30, 2011 and continues to violate them because its SWPPP is not consistent with permit requirements, is not fully implemented, and has not been updated as necessary.

The SWPPP fails to satisfy the requirements of Condition S3 of the Permits because it does not adequately describe BMPs. Condition S3.B.4 of the Permits requires that the SWPPP include a description of the BMPs that are necessary for the facility to eliminate or reduce the potential to contaminate stormwater. Condition S3.B.4 of the 2015 Permit requires that the SWPPP detail how and where the selected BMPs will be implemented. Condition S3.A.3 of the Permits requires that the SWPPP include BMPs consistent with approved stormwater technical manuals or document how stormwater BMPs included in the SWPPP are demonstratively equivalent to the practices contained in the approved stormwater technical manuals, including the proper selection, implementation, and maintenance of all applicable and appropriate BMPs. Fast Auto's SWPPP does not comply with these requirements because it does not adequately describe and explain in detail the BMPs selected, does not include BMPs consistent with approved stormwater technical manuals, and does not include BMPs that are demonstratively equivalent to such BMPs with documentation of BMP adequacy.

Fast Auto's SWPPP fails to satisfy the requirements of Condition S3.B.2 of the Permits because it fails to include a facility assessment. The SWPPP fails to include an adequate facility assessment because it does not describe the industrial activities conducted at the site, the general layout of the facility including buildings and storage of raw materials, the flow of goods and materials through the facility, the regular business hours, and the seasonal variations in business hours or in industrial activities.

Fast Auto's SWPPP fails to satisfy the requirements of Condition S3.B.1 of the Permits because it does not include a site map that identifies significant features, the stormwater drainage and discharge structures, the stormwater drainage areas for each stormwater discharge point off-site, a unique identifying number for each discharge point, each sampling location with a unique identifying number, paved areas and buildings, areas of pollutant contact associated with specific industrial activities, conditionally approved non-stormwater discharges, surface water locations, areas of existing and potential soil erosion, vehicle maintenance areas, and lands and waters adjacent to the site that may be helpful in identifying discharge points or drainage routes.

Fast Auto's SWPPP fails to comply with Condition S3.B.2.b of the Permits because it does not include an inventory of industrial activities that identifies all areas associated with industrial activities that have been or may potentially be sources of pollutants. The SWPPP does not identify all areas associated with loading and unloading of dry bulk materials or liquids, outdoor storage of materials or products, outdoor manufacturing and processing, onsite dust or particulate generating processes, on-site waste treatment, storage, or disposal, vehicle and equipment fueling, maintenance, and/or cleaning, roofs or other surfaces exposed to air emissions from a manufacturing building or a process area, and roofs or other surfaces composed of materials that may be mobilized by stormwater as required by these permit conditions.

Fast Auto's SWPPP does not comply with Condition S3.B.2.c of the Permits because it does not include an adequate inventory of materials. The SWPPP does not include an inventory of materials that lists the types of materials handled at the site that potentially may be exposed to precipitation or runoff and that could result in stormwater pollution, a short narrative for each material describing the potential for the pollutants to be present in stormwater discharge that is updated when data becomes available to verify the presence or absence of the pollutants, a narrative description of any potential sources of pollutants from past activities, materials and spills that were previously handled, treated, stored, or disposed of in a manner to allow ongoing exposure to stormwater as required. The SWPPP does not include the method and location of on-site storage or disposal of such materials and a list of significant spills and significant leaks of toxic or hazardous pollutants as these permit conditions require.

Fast Auto's SWPPP does not comply with Condition S3.B.3 of the Permits because it does not identify specific individuals by name or title whose responsibilities include SWPPP development, implementation, maintenance and modification.

Condition S3.B.4 of the Permits requires that permittees include in their SWPPPs and implement certain mandatory BMPs unless site conditions render the BMP unnecessary, infeasible, or an alternative and equally effective BMP are provided. Fast Auto is in violation of this requirement because it has failed to include in its SWPPP and implement the mandatory BMPs of the Permits.

Fast Auto's SWPPP does not comply with Condition S3.B.4.b.i of the Permits because it does not include required operational source control BMPs in the following categories: good housekeeping (including definition of ongoing maintenance and cleanup of areas that may contribute pollutants to stormwater discharges, and a schedule/frequency for each housekeeping task); preventive maintenance (including BMPs to inspect and maintain stormwater drainage and treatment facilities, source controls, treatment systems, and plant equipment and systems, and the schedule/frequency for each task); spill prevention and emergency cleanup plan (including BMPs to prevent spills that can contaminate stormwater, for material handling procedures, storage requirements, cleanup equipment and procedures, and spill logs); employee training (including an overview of what is in the SWPPP, how employees make a difference in complying with the SWPPP, spill response procedures, good housekeeping, maintenance requirements, material management practices, how training will be conducted, the frequency/schedule of training, and a log of the dates on which specific employees received training); inspections and recordkeeping (including documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping, including identification of personnel who conduct inspections, provision of a tracking or follow-up procedure to ensure that a report is prepared and appropriate action taken in response to visual monitoring, definition of how Fast Auto will comply with signature and record retention requirements, certification of compliance with the SWPPP and Permit, and all inspection reports completed by Fast Auto).

Fast Auto's SWPPP does not comply with Condition S3.B.4.b.i.7 of the Permits because it does not include measures to identify and eliminate the discharge of process wastewater, domestic wastewater, noncontact cooling water, and other illicit discharges to stormwater sewers, or to surface waters and ground waters of the state.

Fast Auto's SWPPP does not comply with Condition S3.B.4.b.ii of the Permits because it does not include required structural source control BMPs to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff. Fast Auto's SWPPP does not comply with Condition S3.B.4.b.iii of the Permits because it does not include treatment BMPs as required.

Fast Auto's SWPPP fails to comply with Condition S3.B.4.b.v of the Permits because it does not include BMPs to prevent the erosion of soils or other earthen materials and prevent off-site sedimentation and violations of water quality standards.

Fast Auto's SWPPP fails to satisfy the requirements of Condition S3.B.5 of the Permits because it fails to include a stormwater sampling plan as required. The SWPPP does not include a sampling plan that identifies points of discharge to surface waters, storm sewers, or discrete ground water infiltration locations, documents why each discharge point is not

sampled, identifies each sampling point by its unique identifying number, identifies staff responsible for conducting stormwater sampling, specifies procedures for sampling collection and handling, specifies procedures for sending samples to the a laboratory, identifies parameters for analysis, holding times and preservatives, laboratory quantization levels, and analytical methods, and that specifies the procedure for submitting the results to Ecology.

IV. MONITORING AND REPORTING VIOLATIONS.

A. Failure to Collect Quarterly Samples.

Condition S4.B of the Permits require Fast Auto to collect a sample of its stormwater discharge once during every calendar quarter. Conditions S3.B.5.b and S4.B.2.c of the Permits require Fast Auto to collect stormwater samples at each distinct point of discharge offsite except for substantially identical outfalls, in which case only one of the substantially identical outfalls must be sampled. These conditions set forth sample collection criteria, but require the collection of a sample even if the criteria cannot be met.

Fast Auto violated these requirements by failing to collect stormwater samples in compliance with the requirements of the 2010 Permit during the following quarters:

- 3rd Quarter 2011
- 2nd Quarter 2012
- 3rd Quarter 2012
- 4th Quarter 2012
- 2nd Quarter 2013
- 3rd Quarter 2013
- 4th Quarter 2013
- 2nd Quarter 2014
- 3rd Quarter 2014

While Fast Auto filed a DMR labeled 3rd Quarter 2011, Fast Auto collected samples reported in that DMR during 4th Quarter 2011. In turn, Fast Auto failed to collect quarterly samples in 3rd Quarter 2011.

Fast Auto has also violated and continues to violate these conditions because it does not sample each distinct point of discharge off-site each quarter. These violations have occurred and continue to occur each and every quarter since June 30, 2011 that Fast Auto was and is required to sample its stormwater discharges, including the quarters in which it collected stormwater discharge samples from some, but not all, points of discharge. These violations will continue until Fast Auto commences monitoring all distinct points of discharge.

B. Failure to Analyze Quarterly Samples.

Condition S5.A.1 of the Permits requires Fast Auto to analyze stormwater samples collected quarterly for turbidity, pH, total copper, total zinc, total lead, and total petroleum hydrocarbons, and oil sheen.

Fast Auto violated these conditions by failing to analyze stormwater samples for any of the required parameters during the following quarters:

3rd Quarter 2011
2nd Quarter 2012
3rd Quarter 2012
4th Quarter 2012
2nd Quarter 2013
3rd Quarter 2013
4th Quarter 2013
2nd Quarter 2014
3rd Quarter 2014

Fast Auto also violated these conditions by failing to analyze stormwater samples for the following parameters in the following quarters:

lead and petroleum hydrocarbons in 4th Quarter 2011, the 1st Quarter of 2012, and the 1st Quarter of 2013; and pH and lead in 1st Quarter 2014

C. Failure to Timely Submit Discharge Monitoring Reports.

Condition S9.A of the Permits require Fast Auto to use DMR forms provided or approved by Ecology to summarize, report and submit monitoring data to Ecology. For each monitoring period (calendar quarter) a DMR must be completed and submitted to Ecology not later than 45 days after the end of the monitoring period. Fast Auto has violated these conditions by failing to submit a DMR within the time prescribed for the following quarters:

3rd Quarter 2011
4th Quarter 2011
2nd Quarter 2012
3rd Quarter 2012
4th Quarter 2012
2nd Quarter 2013
3rd Quarter 2013
4th Quarter 2013
2nd Quarter 2014
3rd Quarter 2014

D. Failure to Comply with Visual Monitoring Requirements.

Condition S7.A of the Permits requires that monthly visual inspections be conducted at the facility by qualified personnel. Each inspection is to include observations made at stormwater sampling locations and areas where stormwater associated with industrial activity is discharged, observations for the presence of floating materials, visible oil sheen, discoloration, turbidity, odor, etc. in the stormwater discharges, observations for the presence of illicit discharges, a verification that the descriptions of potential pollutant sources required by the permit are accurate, a verification that the site map in the SWPPP reflects current conditions, and an assessment of all BMPs that have been implemented (noting the effectiveness of the BMPs inspected, the locations of BMPs that need maintenance, the reason maintenance is needed and a schedule for maintenance, and locations where additional or different BMPs are needed).

Condition S7.C of the Permits requires that Fast Auto record the results of each inspection in an inspection report or checklist that is maintained on-site and that documents the observations, verifications, and assessments required. The report/checklist must include the time and date of the inspection, the locations inspected, a statement that, in the judgment of the person conducting the inspection and the responsible corporate officer, the facility is either in compliance or out of compliance with the SWPPP and the 2010 Permit, a summary report and schedule of implementation of the remedial actions that Fast Auto plans to take if the site inspection indicates that the facility is out of compliance, the name, title, signature and certification of the person conducting the facility inspection, and a certification and signature of the responsible corporate officer or a duly authorized representative.

Fast Auto is in violation of these requirements of Condition S7 of the Permits because, since June 30, 2011, it has failed to conduct each of the requisite visual monitoring and inspections, failed to prepare and maintain the requisite inspection reports or checklists, and failed to make the requisite certifications and summaries.

V. CORRECTIVE ACTION VIOLATIONS.

A. Violations of the Level One Requirements of the Permits.

Condition S8.B of the Permits requires Fast Auto take specified actions, called a "Level One Corrective Action," each time quarterly stormwater sample results exceed a benchmark value or are outside the benchmark range for pH. Condition S8.A of the 2015 Permit requires that Fast Auto implement any Level One Corrective Action required by the 2010 Permit.

As described by Condition S8.B of the Permits, a Level One Corrective Action requires Fast Auto: (1) review the SWPPP for the facility and ensure that it fully complies with Condition S3 of the 2010 Permit and contains the correct BMPs from the applicable Stormwater Management Manual; (2) make appropriate revisions to the SWPPP to include

additional operational source control BMPs with the goal of achieving the applicable benchmark values in future discharges and sign and certify the revised SWPPP in accordance with Condition S3.A.6 of the 2010 Permit; and (3) summarize the Level One Corrective Action in the Annual Report required under Condition S9.B of the Permits. Condition S8.B.4 of the Permits requires that Fast Auto implement the revised SWPPP as soon as possible, and no later than the DMR due date for the quarter the benchmark was exceeded.

Conditions S5.A and S5.B and Tables 2 and 3 of the Permits establish the following applicable benchmarks: turbidity 25 NTU; pH 5 – 9 SU; total copper 14 µg/L; total zinc 117 µg/L; total lead 81.6 µg/L; and total petroleum hydrocarbons 10 mg/L.

Fast Auto has violated the requirements of the Permits described above by failing to conduct a Level One Corrective Action in accordance with permit conditions, including the required review, revision and certification of the SWPPP, the required implementation of additional BMPs, and the required summarization in the annual report each time since June 30, 2011, that quarterly stormwater sampling results were greater than a benchmark or outside the benchmark range for pH, including the benchmark excursions listed in Table 1 in Section II.A. of this letter.

These benchmark excursions are based upon information currently available to Columbia Riverkeeper from Ecology's publicly available records. Columbia Riverkeeper provides notice of its intent to sue Fast Auto for failing to comply with all of the Level One Corrective Action requirements described above by failing to conduct a Level One Corrective Action in accordance with permit conditions, including the required review, revision and certification of the SWPPP, the required implementation of additional BMPs, and the required summarization in the annual report each time since June 30, 2011 its quarterly stormwater sampling results were greater than a benchmark or outside the benchmark range for pH, including the benchmark excursions listed in Table 1 above.

VI. VIOLATIONS OF THE ANNUAL REPORT REQUIREMENTS.

Condition S9.B of the Permits requires Fast Auto to submit an accurate and complete annual report to Ecology no later than May 15 of each year. The annual report must include corrective action documentation as required in Condition S8.B through S8.D. If a corrective action is not yet completed at the time of submission of the annual report, Fast Auto must describe the status of any outstanding corrective action. Specific information to be included in the annual report is identification of the conditions triggering the need for corrective action, description of the problem and identification of dates discovered, summary of any Level 1, 2, or 3 corrective actions completed during the previous calendar year, including the dates corrective actions completed, and description of the status of any Level 2 or 3 corrective actions triggered during the previous calendar year, including identification of the date Fast Auto expects to complete corrective actions. Fast Auto has violated this condition by failing to include all of the required information in the annual reports it submitted for 2011 and 2013 and failed to submit an annual report for 2012.

The annual report submitted by Fast Auto for 2011 (on May 30, 2012) does not include the required information. For example, the report does not describe any of the stormwater problems identified and fails to identify the Level One Corrective Actions triggered, or what Fast Auto did in response. In addition, Fast Auto's annual report states falsely that that no benchmarks were exceeded in 2011.

Fast Auto failed to submit an annual report for 2012. Failure to submit an annual report is an ongoing violation.

The annual report submitted by Fast Auto for 2013 (on May 19, 2014) does not include all of the required information. For example, it does not describe all of the stormwater problems identified.

VII. VIOLATIONS OF THE RECORDKEEPING REQUIREMENTS.

A. Failure to Record Information.

Condition S4.B.3 of the Permits requires Fast Auto record and retain specified information for each stormwater sample taken, including the sample date and time, a notation describing if Fast Auto collected the sample within the first 30 minutes of stormwater discharge event, an explanation of why Fast Auto could not collect a sample within the first 30 minutes of a stormwater discharge event, the sample location, method of sampling and of preservation, and the individual performing the sampling. Upon information and belief, Fast Auto is in violation of these conditions as it has not recorded each of these specified items for each sample taken since June 30, 2011.

B. Failure to Retain Records.

Condition S9.C of the Permits requires Fast Auto to retain for a minimum of five years a copy of the Permits, a copy of Fast Auto's coverage letter, records of all sampling information, inspection reports including required documentation, any other documentation of compliance with permit requirements, all equipment calibration records, all BMP maintenance records, all original recordings for continuous sampling instrumentation, copies of all laboratory results, copies of all required reports, and records of all data used to complete the application for the Permits. Upon information and belief, Fast Auto is in violation of these conditions because it has failed to retain records of such information, reports, and other documentation since June 30, 2011.

VIII. REQUEST FOR SWPPP.

Pursuant to Condition S9.F of the 2015 Permit, Columbia Riverkeeper hereby requests that Fast Auto provide a copy of, or access to, its SWPPP complete with all incorporated plans, monitoring reports, checklists, and training and inspection logs. The copy of the SWPPP and any other communications about this request should be directed to the undersigned at the letterhead address.

Should Fast Auto fail to provide the requested complete copy of, or access to, its SWPPP as required by Condition S9.F of the 2015 Permit, it will be in violation of that condition, which violation shall also be subject to this Notice of Intent to Sue and any ensuing lawsuit.

IX. PARTY GIVING NOTICE OF INTENT TO SUE.

The full name, address, and telephone number of the party giving notice is:

Columbia Riverkeeper
111 Third St.
Hood River, OR 97031
(541) 387-3030

X. ATTORNEYS REPRESENTING RIVERKEEPER.

The attorneys representing Columbia Riverkeeper in this matter are:

Brian A. Knutsen and Elizabeth H. Zultoski
Smith & Lowney, PLLC
917 S.W. Oak Street, Suite 302
Portland, OR 97205
(503) 894-9634

Lauren Goldberg, Staff Attorney
Columbia Riverkeeper
111 Third St.
Hood River, OR 97031
(541) 965-0985
(Licensed in Oregon)

Please send mail to:

Smith & Lowney, PLLC
2317 East John Street
Seattle, WA 98112

Lauren Goldberg, Staff Attorney
Columbia Riverkeeper
111 Third St.
Hood River, OR 97031

XI. CONCLUSION.

The above-described violations reflect those indicated by the information currently available to Columbia Riverkeeper. These violations are ongoing. Columbia Riverkeeper intends to sue for all violations, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue.

Under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), each of the above-described violations subjects the violator to a penalty of up to \$37,500 per day for each violation. In addition to civil penalties, Columbia Riverkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 U.S.C. § 1365(a) and (d), and such other relief as is permitted by law. Also, Section 505(d) of the CWA, 33 USC § 1365(d), permits prevailing parties to recover costs, including attorney's fees.

Columbia Riverkeeper believes that this NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit. Columbia Riverkeeper intends, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against Fast Auto under Section 505(a) of the Clean Water Act for the violations described herein.

Columbia Riverkeeper is willing to discuss effective remedies for the violations described in this letter and settlement terms during the 60-day notice period. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within ten (10) days of receiving this notice so that a meeting can be arranged and so that negotiations may be completed promptly. We do not intend to delay the filing of a complaint if discussions are continuing when the notice period ends.

Very truly yours,

SMITH & LOWNY, PLLC

By: 

Elizabeth H. Zultoski

cc: Gina McCarthy, Administrator, U.S. EPA
Dennis McLerran, Region 10 Administrator, U.S. EPA
Maia Bellon, Director, Washington Department of Ecology
Registered Agent, Alex Kutsar, 21919 NE 72nd Ave., Ste. B Battle Ground,
WA98604-4022

Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)
2011	Precip. (in)	16	0	4	0.16	24	0.32
Jun	sum	17	0	5	0.05	25	0.07
30	T	18	0	6	0.03	26	T
2011	Precip. (in)	19	0	7	0.02	27	0.45
Jul	sum	20	0	8	0	28	0
1	0	21	0	9	0.03	29	0.02
2	0	22	0	10	0.28	30	0.04
3	0	23	T	11	0.2	2011	Precip. (in)
4	0	24	0	12	T	Dec	sum
5	0	25	0	13	0.05	1	0
6	0	26	0	14	T	2	0.01
7	0	27	0	15	0.01	3	0
8	0	28	0	16	0	4	0
9	0	29	0.02	17	0	5	0.01
10	0	30	0	18	0	6	0
11	T	31	0	19	0	7	0
12	0.14	2011	Precip. (in)	20	0.01	8	0
13	0.06	Sep	sum	21	T	9	0
14	T	1	0	22	0.01	10	0.02
15	0	2	0	23	T	11	0
16	0.13	3	0	24	0	12	0
17	0.66	4	0	25	0	13	0
18	0.01	5	0	26	0.01	14	0.08
19	0.04	6	0	27	0	15	0.02
20	T	7	0	28	0.15	16	0.01
21	0.02	8	0	29	0	17	0
22	0	9	0	30	0.26	18	0.05
23	0	10	0	31	0.01	19	0
24	0	11	0	2011	Precip. (in)	20	0.03
25	T	12	0	Nov	sum	21	0
26	0	13	0	1	0	22	0
27	0	14	0	2	T	23	0
28	0	15	0.03	3	0.02	24	T
29	0	16	0.01	4	0	25	0.07
30	0	17	0.09	5	0.17	26	0.04
31	0	18	0.1	6	T	27	0.43
2011	Precip. (in)	19	0.02	7	0.01	28	0.67
Aug	sum	20	0.01	8	0.02	29	0.67
1	0	21	0	9	T	30	0.36
2	0	22	0	10	0	31	0.01
3	0	23	0	11	0.19	2012	Precip. (in)
4	0	24	0	12	0.13	Jan	sum
5	0	25	0.06	13	0.04	1	0
6	0	26	0.16	14	0.13	2	0.01
7	0	27	0.12	15	T	3	0
8	0	28	0	16	0.55	4	0.15
9	0	29	0	17	0.18	5	0.05
10	0	30	T	18	0.12	6	0.15
11	0	2011	Precip. (in)	19	0.01	7	T
12	0	Oct	sum	20	0.01	8	0.01
13	0	1	0.02	21	0.45	9	0.31
14	0	2	0.02	22	2.37	10	0.01
15	0	3	0.13	23	0.74	11	0

Historical weather data for Battle Ground, WA from June 30, 2011 until February 12, 2015

Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)
12	0	1	0.28	19	0.48	7	0.47
13	0	2	T	20	0.02	8	0.38
14	0.11	3	0.01	21	0	9	0.01
15	0.01	4	0	22	0	10	0
16	0.06	5	0.27	23	T	11	0
17	0.42	6	T	24	T	12	0.05
18	1.15	7	0	25	T	13	0
19	1.73	8	0	26	T	14	0
20	0.63	9	0	27	T	15	0
21	0.04	10	0.06	28	T	16	0
22	0.38	11	0.13	29	0	17	0
23	0	12	1.01	30	0.03	18	0.06
24	0.87	13	0.2	2012	Precip. (in)	19	0.05
25	0.02	14	0.57	May	sum	20	0.01
26	0.1	15	0.75	1	0.16	21	0
27	0	16	0.18	2	T	22	0.07
28	0	17	0.2	3	0.77	23	0.53
29	0.39	2012	Precip. (in)	4	0.11	24	0.13
30	T	Mar	sum	5	T	25	0.01
31	0.01	18	0.11	6	0	26	0.34
2012	Precip. (in)	19	0.15	7	0	27	0
Feb	sum	20	0.4	8	0	28	T
1	0.02	21	0.57	9	0	29	T
2	0	22	0.34	10	0	30	0.05
3	0	23	0	11	0	2012	Precip. (in)
4	0	24	0	12	0	Jul	sum
5	0	25	0	13	0	1	0.03
6	0	26	T	14	0	2	0.02
7	T	27	0.12	15	0	3	0.01
8	0.14	28	T	16	0	4	0
9	0.19	29	0.67	17	0	5	0
10	0.21	30	0.36	18	0	6	0
11	0	31	0.46	19	0	7	0
12	0.07	2012	Precip. (in)	20	0.07	8	0
13	0.06	Apr	sum	21	0.36	9	0
14	0.08	1	0.03	22	0.18	10	0
15	T	2	0	23	0.01	11	0
16	0.1	3	0.22	24	0.21	12	0
17	0.27	4	0.13	25	0	13	0
18	0.22	5	0.23	26	0.01	14	0
19	0.01	6	0	27	0	15	0.12
20	0.23	7	0	28	T	16	0
21	0.05	8	0	29	0	17	0
22	0.24	9	0	30	0	18	0
23	0.01	10	T	31	0.03	19	0
24	0.17	11	0.35	2012	Precip. (in)	20	0.05
25	0.22	12	T	Jun	sum	21	0
26	0.03	13	0.02	1	T	22	0
27	T	14	0	2	0.02	23	0
28	0.33	15	0	3	0	24	0
29	0.27	16	0.39	4	0.16	25	0
2012	Precip. (in)	17	0.06	5	0.31	26	0
Mar	sum	18	0.07	6	0	27	T

Historical weather data for Battle Ground, WA from June 30, 2011 until February 12, 2015

Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)
28	0	15	0	3	0.12	24	0.04
29	0	16	0	4	T	25	0.75
30	0	17	0	5	0.02	26	0.13
31	0	18	0	6	0.1	27	0.01
2012	Precip. (in)	19	0	7	0	28	0
Aug	sum	20	T	8	0	29	0.01
1	0	21	0	9	0	30	0
2	0	22	0	10	0	31	0.01
3	0	23	0	11	0.41	2013	Precip. (in)
4	0	24	0	12	0.45	Jan	sum
5	0	25	0	13	0.01	1	0
6	0	26	0	14	0	2	0
7	0	27	0	15	0	3	T
8	0	28	0	16	T	4	0.08
9	0	29	0	17	0.53	5	0.03
10	0	30	0	18	0.49	6	0.19
11	0	2012	Precip. (in)	19	1.64	7	0.08
12	0	Oct	sum	20	0.59	8	0.11
13	0	1	0	21	0.3	9	0.23
14	0	2	0	22	0	10	0.2
15	0	3	0	23	1.08	11	0.01
16	0	4	0	24	0.12	12	0
17	0	5	0	25	0	13	T
18	T	6	0	26	0	14	0.05
19	0	7	0	27	0	15	0.02
20	0	8	0	28	0.07	16	0
21	0	9	0	29	0.32	17	0
22	0	10	0	30	0.65	18	0
23	0	11	0	2012	Precip. (in)	19	0.01
24	0	12	1.06	Dec	sum	20	0
25	0	13	T	1	0.59	21	0.01
26	0	14	0	2	0.39	22	0
27	0	15	0.29	3	0.36	23	0.22
28	0	16	0.07	4	0.85	24	0.23
29	0	17	0	5	0.03	25	0.19
30	0	18	0.03	6	0.01	26	0.06
31	0	19	0.28	7	0.03	27	0.14
2012	Precip. (in)	20	0.3	8	0.11	28	0.83
Sep	sum	21	0.06	9	0.08	29	0.44
1	0	22	0.21	10	0	30	0.26
2	0	23	0.17	11	0.14	31	0.01
3	0	24	0.03	12	0.23	2013	Precip. (in)
4	0	25	0.01	13	T	Feb	sum
5	0	26	0.05	14	0.36	1	0
6	0	27	0.46	15	0.33	2	0.01
7	0	28	0.55	16	0.74	3	0
8	0	29	0.44	17	0.24	4	0
9	0	30	0.32	18	0.05	5	0.1
10	0.04	31	0.1	19	0.57	6	0.05
11	0	2012	Precip. (in)	20	0.82	7	0.01
12	0	Nov	sum	21	0.09	8	0
13	0	1	0.18	22	0.14	9	0
14	T	2	0.06	23	0.56	10	0

Historical weather data for Battle Ground, WA from June 30, 2011 until February 12, 2015

Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)
11	0.01	2013	Precip. (in)	20	0	8	0
12	0.01	Apr	sum	21	0.39	9	0
13	0.02	1	0	22	0.44	10	0
14	0	2	0	23	0.45	11	0
15	0	3	0	24	0.19	12	0
16	0.03	4	0.26	25	T	13	0
17	0	5	0.26	26	0.11	14	0
18	0.02	6	0.53	27	0.78	15	0
19	0.05	7	0.14	28	0.01	16	0
20	0.03	8	0.03	29	0.52	17	0
21	0.05	9	0	30	0.22	18	0
22	0.36	10	0.08	31	0	19	0
23	0.06	11	0.01	2013	Precip. (in)	20	0
24	T	12	0.08	Jun	sum	21	0
25	0.09	13	0.06	1	T	22	0
26	0.01	14	0.03	2	0	23	0
27	0.09	15	0.12	3	0	24	0
28	0.17	16	0.01	4	0	25	0
2013	Precip. (in)	17	T	5	0	26	0
Mar	sum	18	0.08	6	0	27	0
1	0	19	0.36	7	0	28	0
2	0.03	20	0.05	8	0	29	0
3	T	21	0.01	9	0	30	0
4	0	22	0	10	0	31	0
5	0.18	23	0	11	0.02	2013	Precip. (in)
6	0.27	24	0	12	0.51	Aug	sum
7	0	25	0	13	0.37	1	0.04
8	0	26	0	14	0	2	0
9	0	27	0	15	0	3	0
10	0.01	28	0	16	0	4	0
11	0.01	29	0.07	17	0	5	0
12	0	30	0.02	18	0	6	0
13	0	2013	Precip. (in)	19	0.06	7	0
14	T	May	sum	20	0.04	8	0
15	T	1	0	21	0	9	T
16	0.05	2	0	22	0	10	T
17	0.01	3	0	23	0.1	11	0
2013	Precip. (in)	4	0	24	0.18	12	0
Mar	sum	5	0	25	0.08	13	0
18	0	6	0	26	0.11	14	0
19	0.58	7	0	27	0	15	T
20	0.29	8	0	28	0	16	0
21	0.04	9	0	29	0	17	0
22	0.07	10	0	30	0	18	0
23	T	11	0	2013	Precip. (in)	19	0
24	0	12	0.03	Jul	sum	20	0
25	0.01	13	T	1	0	21	0
26	0.01	14	0	2	0	22	0
27	0.01	15	0.05	3	0	23	0.01
28	T	16	0.2	4	0	24	0
29	0.01	17	0.03	5	0	25	0.06
30	0	18	0.17	6	0	26	T
31	0	19	0	7	0	27	0.01

Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)
28	0.02	16	0	4	0	24	0
29	0.2	17	0	5	0	25	0
30	0.01	18	0	6	T	26	0
31	0	19	0	7	0	27	T
2013	Precip. (in)	20	0	8	0	28	0.31
Sep	sum	21	0	9	T	29	0.26
1	0	22	0	10	T	30	0.08
2	0	23	0	11	0	31	0.02
3	0.12	24	0	12	0.14	2014	Precip. (in)
4	0	25	0	13	0.03	Feb	sum
5	0.12	26	0	14	0	1	0
6	0.97	27	0.3	15	0.02	2	0.01
7	0.01	28	0	16	0	3	0.03
8	0	29	0	17	0	4	T
9	0	30	0	18	0.05	5	0
10	0	31	0.03	19	0	6	T
11	0	2013	Precip. (in)	20	0.08	7	0
12	0	Nov	sum	21	0.06	8	0
13	0	1	0	22	0.05	9	T
14	0	2	0.3	23	0.25	10	0.12
15	0.03	3	0.05	24	0	11	0.38
16	T	4	0.15	25	0	12	0.05
17	0	5	0.05	26	0	13	0.18
18	0	6	0.15	27	T	14	0.37
19	0	7	0.31	28	0	15	0.79
20	0	8	0.01	29	0	16	0.07
21	0.19	9	0	30	0.01	17	1.12
22	0.15	10	0	31	T	18	0.65
23	0.03	11	0	2014	Precip. (in)	19	0.11
24	0.2	12	0.21	Jan	sum	20	0.12
25	0	13	0	1	0	21	0
26	0.01	14	0.03	2	0.12	22	0
27	0.1	15	0.04	3	0.04	23	0.01
28	1.06	16	0.12	4	0	24	0.17
29	1.07	17	0	5	0	25	T
30	0.24	18	0.32	6	0.01	26	0
2013	Precip. (in)	19	0.2	7	0.38	27	0.17
Oct	sum	20	0	8	0.26	28	0
1	0.2	21	0	9	0.12	2014	Precip. (in)
2	0.28	22	0	10	0.01	Mar	sum
3	0	23	0	11	0.76	1	0.04
4	0	24	0	12	0.17	2	0.43
5	0	25	0	13	0	3	0.24
6	0	26	0	14	0	4	0.03
7	0.07	27	0	15	0	5	1.16
8	0.14	28	0	16	0	6	0.18
9	0	29	0.02	17	0	7	0
10	0	30	0.13	18	0	8	0.31
11	0	2013	Precip. (in)	19	0	9	0.28
12	0.04	Dec	sum	20	0	10	0.11
13	0	1	0.76	21	0	11	0
14	0.01	2	0.05	22	0	12	0
15	0	3	0.02	23	0	13	0.01

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Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)
14	0.17	May	sum	20	0.14	8	0
15	0	1	0	21	0	9	0
16	0.71	2	T	22	0	10	0
17	0.02	3	0.01	23	0.01	11	0
2014	Precip. (in)	4	0.18	24	0	12	0.01
Mar	sum	5	0.03	25	0.07	13	0.01
18	0	6	0	26	0.66	14	0
19	0.01	7	0	27	0.21	15	0
20	0	8	0.33	28	T	16	0
21	0	9	0.43	29	0.24	17	0
22	0	10	0.04	30	0	18	0
23	0	11	0	2014	Precip. (in)	19	0
24	0	12	0	Jul	sum	20	0
25	0.26	13	0	1	0	21	0
26	0.3	14	0	2	0	22	0
27	0.13	15	0	3	0	23	0
28	0.92	16	0	4	0	24	0
29	0.42	17	0.06	5	0	25	0
30	0.04	18	0.76	6	0	26	0
31	0.03	19	0.01	7	0	27	0
2014	Precip. (in)	20	0	8	0	28	0
Apr	sum	21	0	9	0	29	0
1	0.16	22	0	10	0	30	0.02
2	0	23	0.01	11	0	31	0
3	0.03	24	0	12	0	2014	Precip. (in)
4	T	25	0.07	13	0.05	Sep	sum
5	0.14	26	0.02	14	0	1	0
6	T	27	0	15	0	2	0
7	0	28	0.33	16	0	3	0
8	0.37	29	T	17	0	4	0
9	0.01	30	0	18	0	5	0
10	0	31	0	19	0	6	0
11	0	2014	Precip. (in)	20	0	7	0
12	0	Jun	sum	21	0	8	0
13	0	1	0	22	0.24	9	0
14	0	2	0	23	0.52	10	0
15	0	3	0	24	0.01	11	0
16	0.04	4	0	25	0	12	0
17	0.31	5	0	26	0	13	0
18	0	6	0	27	0	14	0
19	0.07	7	0	28	0	15	0
20	0	8	0	29	0	16	T
21	0.05	9	0	30	0	17	T
22	0.24	10	0	31	0	18	0.05
23	0.29	11	0	2014	Precip. (in)	19	0
24	0.41	12	0.18	Aug	sum	20	0
25	0	13	0.1	1	T	21	0
26	0.19	14	0	2	0	22	T
27	0.18	15	0.16	3	0	23	0.44
28	0	16	0.4	4	0	24	0.35
29	0	17	0.02	5	0	25	0.04
30	0	18	0	6	0	26	T
2014	Precip. (in)	19	0.01	7	0	27	0

Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)	Date	Precip. (in)
28	0	16	0	4	0.26		
29	0.13	17	0	5	0.01		
30	0.14	18	0	6	0		
2014	Precip. (in)	19	0.03	7	0		
Oct	sum	20	0.01	8	0		
1	0	21	0.62	9	0		
2	0	22	0.12	10	0.12		
3	0	23	0.43	11	0.06		
4	0	24	0.01	12	0		
5	0	25	T	13	0		
6	0	26	T	14	0		
7	0	27	0.03	15	0.61		
8	0	28	0.52	16	0.19		
9	0	29	0.22	17	1.73		
10	0	30	0	18	0.23		
11	0.3	2014	Precip. (in)	19	T		
12	0	Dec	sum	20	0		
13	0.13	1	0	21	0		
14	0.26	2	0	22	0.01		
15	0.26	3	0.02	23	0.08		
16	0	4	0.94	24	0.01		
17	0.21	5	0.21	25	0		
18	0.01	6	0.37	26	0		
19	T	7	T	27	0.04		
20	0.15	8	T	28	0		
21	0.05	9	0.42	29	0		
22	1.7	10	0.55	30	0		
23	0.36	11	0.18	31	0		
24	0.13	12	0.35	2015	Precip. (in)		
25	0.12	13	0	Feb	sum		
26	0.15	14	0	1	0.23		
27	0	15	T	2	0.49		
28	0.32	16	0.03	3	0.07		
29	0.08	17	0.07	4	0.14		
30	0.7	18	0.26	5	0.66		
31	1.1	19	0.07	6	0.75		
2014	Precip. (in)	20	1.1	7	0.79		
Nov	sum	21	0.11	8	0.09		
1	0	22	0.01	9	0.32		
2	0.16	23	0.17	10	0		
3	0.22	24	0.57	11	0		
4	0.2	25	0.09	12	0		
5	0.02	26	T				
6	0.1	27	0.14				
7	0	28	0.19				
8	0	29	0.09				
9	0.05	30	0				
10	0.01	31	0				
11	0	2015	Precip. (in)				
12	0	Jan	sum				
13	0.1	1	0				
14	0	2	0				
15	0	3	0				

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